

UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina

United States of America

v.

Marian Hudak

) Case No.

1:23MJ262-1

FILED  
in the Middle District of  
North Carolina

6/22/2023  
5:14 PM

Clerk, US District Court  
By: dmk

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 11/27/2021 and 10/13/2022 in the county of Cabarrus in the  
Middle District of North Carolina, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18 U.S.C. 245(b)(2)(B)	Interference with Federally Protected Activities
42 U.S.C. 3631(a)	Criminal Interference with Right to Fair Housing

This criminal complaint is based on these facts:

See Attached Affidavit.

Continued on the attached sheet.

On this day, the applicant appeared before me by reliable electronic means, that is by telephone, was placed under oath, and attested to the contents of this Application for a search warrant in accordance with the requirements of Fed. R. Crim. P. 4.1.

Date: 6/20/2023 3:28 pm

/s/ Michael Stone

*Complainant's signature*

FBI Special Agent Michael A. Stone

*Printed name and title*



*Judge's signature*

City and state: Durham, North Carolina

Joe L. Webster, United States Magistrate Judge

*Printed name and title*

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

**AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT**

I, Michael Stone, being duly sworn do hereby affirm and state the following.

1. I am a Special Agent with the Federal Bureau of Investigation (FBI). I have been so employed since August 2020. I currently investigate federal crimes involving civil rights violations and public corruption for the Charlotte Division of the FBI. Prior to my employment as a Special Agent, I served in a sworn law enforcement capacity at the local and state levels since 2015. I have been trained by the FBI in numerous investigative techniques, as well as in the preparation, presentation, and service of criminal complaints, arrest warrants, and search warrants, and I have been involved in the investigation of numerous types of offenses against the United States.

**Purpose of Affidavit**

2. I submit this affidavit to establish probable cause for an arrest warrant for Marian Hudak ("Hudak") for violations of Title 18, United States Code, Section 245 (Federally Protected Activities) and Title 42, United States Code, Section 3631 (Criminal Interference with Right to Fair Housing) in the Middle District of North Carolina.

3. 18 U.S.C § 245(b)(2)(B) makes it a crime for someone to, "by force or threat of force . . . intimidate[] or interfere[] with, or attempt[] to . . . intimidate or interfere with any person because of his race, color, religion, or national origin and because he is or has been . . . participating in or enjoying any benefit, service, privilege, program, facility or activity provided or administered by any State or subdivision thereof."

4. 42 U.S.C. § 3631(a) makes it a crime for someone to willfully, "by force or threat of force injure[], intimidate[] or interfere[] with, or attempts to injure, intimidate or interfere with any person because of his race, color, religion, sex, handicap [], familial status [], or national origin and because he is . . . occupying" any dwelling.

**Hudak attempts to drive the victim, J.S., off of the Concord Parkway**

5. Hudak first came to my attention after A.R. reported to the FBI that she and her boyfriend, J.S., were victims of a hate crime committed by Hudak. In subsequent interviews, A.R. and J.S. reported that, on October 13, 2022, at approximately 3:20 p.m., J.S., a Black man, encountered Hudak while J.S. was driving on Concord Parkway South in Concord, North Carolina.<sup>1</sup> Hudak was driving a black Dodge Ram covered in stickers and flags, including the Confederate flag. J.S. had heard stories about Hudak and how Hudak had

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<sup>1</sup> Concord Parkway South is a facility provided and administered by North Carolina.

tried to run people off the road and yelled racial slurs at Black people. J.S. had also encountered Hudak in his truck once before, and Hudak flipped J.S. off. Because of this, J.S. felt startled and nervous when he encountered Hudak in traffic.

6. J.S. explained that, initially, he was driving behind Hudak. Traffic caused them to get close, and Hudak drove next to J.S.'s passenger side. J.S.'s windows were down a bit, and his sunroof was open. When J.S. looked to the right, Hudak was staring at him. As they drove next to each other, Hudak yelled "n\*\*\*\*\*," "come here boy," and things about Trump. J.S. observed multiple knives, which looked like throwing knives, jammed into the driver's side window of Hudak's truck. Hudak tried to cut J.S. off, causing J.S. to swerve.

7. J.S. drove away and noticed that Hudak was trying to keep up with J.S. At a stop light, J.S. was stopped in the far-left lane. Hudak, in turn, pulled his truck next to J.S.'s passenger side and then drove in front of J.S.'s car and into J.S.'s lane, blocking J.S.'s path. Hudak got out of his truck, approached J.S.'s car on foot, and pointed his finger saying, "Hey come here." J.S. rolled up his windows and closed his sunroof when J.S. saw Hudak exit his truck. Hudak banged on J.S.'s window and yelled racial slurs, including "come here n\*\*\*\*\*." J.S. felt threatened and reached for his pistol. After the light turned green and

there was a break in traffic, J.S. swerved into the right lane and was able to drive away.

8. Hudak then followed J.S. to his home, [REDACTED] [REDACTED] in Concord, North Carolina, a residential apartment complex. After the encounter with Hudak at the traffic light, J.S. called A.R. and told her there was a man in a black pickup truck with Rebel flags on it following him, and that J.S. felt threatened. J.S. asked A.R. to call the police and to bring him his assault rifle upon his arrival to the apartment complex.

9. When J.S. arrived at the apartment complex, A.R. ran out into the parking lot in front of their apartment building to give J.S. his assault rifle. A.R. saw Hudak pull into the parking lot, followed by an unidentified man driving a black Cadillac SUV. Hudak and the driver of the black Cadillac SUV blocked the only entrance and exit to the parking lot during the encounter. A screenshot from the surveillance footage [REDACTED] [REDACTED] is included below. Hudak is the individual standing between the black Cadillac SUV and his truck, adorned with the Confederate flag:



10. A.R. and J.S. both reported seeing Hudak with a gun.<sup>2</sup> Specifically, J.S. described seeing Hudak point a gun outside of his truck window and also recalled that Hudak had the gun in his hand when he stepped outside of his truck during the encounter. Hudak shouted that he would shoot J.S. and the person in J.S.'s car. J.S. reported pointing his gun back at Hudak. A.R. reported that she saw Hudak point a gun out his window as he drove into the apartment complex parking lot. A.R. also described seeing a gun when Hudak got out of his truck and walked around his truck bed. A.R. said that Hudak pointed a gun at her again as he was leaving the apartment complex.

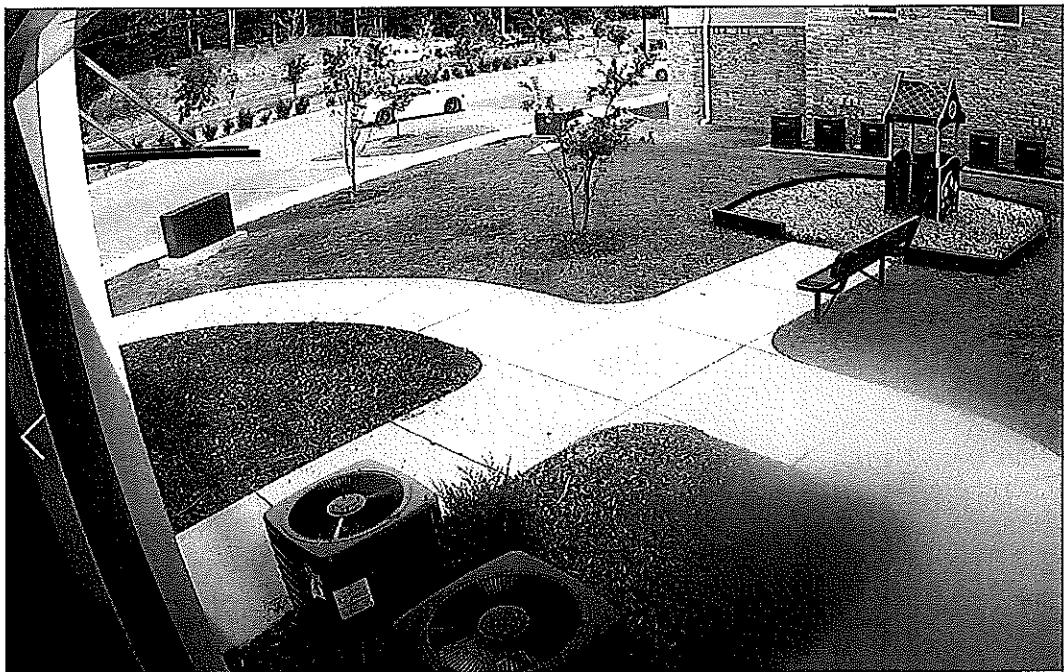
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<sup>2</sup> J.S. called 911 during the encounter but did not contemporaneously report seeing a gun in Hudak's hand.

11. Throughout the encounter, A.R. and J.S. reported that Hudak yelled slurs and threats, including statements like, "I will kill you n\*\*\*\*\*," and, "I will shoot that Black bitch. I know where you live, and I will be back."

12. Below is another screenshot from the surveillance footage [REDACTED]

[REDACTED] After giving J.S. the firearm, A.R. got into J.S.'s white Dodge Charger and drove farther down the parking lot and parked facing the street (outside view of the below frame). J.S. retreated towards the apartment building on foot. J.S. is the individual in the orange sweatshirt shown below.



13. J.S. advised that when Hudak pulled in, Hudak stopped for a moment, saw that J.S.'s car was moving, and began to pursue again until he saw J.S. J.S. thought Hudak was focused on who was driving the car and wanted to shoot A.R. J.S. was yelling at Hudak, telling him that J.S. had called the police and Hudak needed to leave.

14. A.R. reported that when Hudak exited the parking lot, Hudak drove near where A.R. was parked and slowed down. Hudak's windows were down, and A.R. said that Hudak pointed a black handgun at A.R. A.R. got out of the car, ran back towards the apartment building, zig-zagging through parked cars, and took cover behind a parked truck. Hudak sped away, running a red light, as police sirens could be heard, according to J.S. and A.R.

15. Concord Police Department (CPD) responded, with three officers responding [REDACTED] and three officers conducting a traffic stop of Hudak. Officers gave A.R. and J.S. Hudak's information, and A.R. and J.S. filled out a report at the Magistrate's Office the same day.

16. At the scene of the traffic stop, body-worn camera ("BWC") footage from two different angles shows one officer performing a limited sweep of the driver's compartment of Hudak's vehicle. When another officer asked if the searching officer had found anything, the officer stated he had not, but "there's just so much stuff, I don't know." On the evening of October 13, 2022, CPD

officers arrested Hudak for assault by pointing a gun and communicating threats based on the warrants J.S. had sworn out earlier in the day. Hudak was arrested, processed, and released on a written promise to appear in court.

17. J.S. believed the incident with Hudak happened because J.S. was Black and drove a nice car. J.S. and A.R. both advised they had heard of Hudak before this incident. A.R.'s sister had seen Hudak's truck at a gas station in Concord. Hudak was asked to leave because he was harassing people.

18. I have reviewed the recorded 911 audio from the incident, as well as available surveillance camera footage [REDACTED] [REDACTED] and traffic camera footage captured from various intersections located on Concord Parkway South. Audio and surveillance footage corroborates J.S. and A.R.'s account of the incident; however, the firearm was not visible on the surveillance, and CPD officers did not see it in while performing their limited sweep of Hudak's truck.

19. Agents interviewed K.E., a Black woman who lives in the same apartment complex as J.S. and A.R. K.E. was leaving the parking lot in her black Chevy Tahoe with her sixteen-year-old son when Hudak pulled in. K.E. told agents that she was present during the duration of Hudak's encounter with Smith in the parking lot because traffic on the road outside prevented

them from pulling out of the parking lot. Security camera footage from the apartment complex confirms this account.

20. K.E. told agents that she saw Hudak pull into the parking lot and could see him pointing a small black handgun at J.S. K.E. called 911 and told the dispatcher, "that man that rides around Concord with all those Trump flags everywhere, he just followed these Black guys out here and I seen guns and everything." K.E. also explained that she was on alert because she had two previous encounters with Hudak in which Hudak drove up next to her, yelled, and pointed.

#### **Hudak's Criminal Interference with J.D.'s Housing Rights**

21. After interviewing J.S. and A.R., the FBI opened an investigation into Hudak's conduct and continued to interview witnesses. Hudak currently resides [REDACTED] to a Mexican family, including A.D. and J.D., in Concord, North Carolina.

22. J.D. reported to agents that on November 26, 2021, he parked his car on the grass outside his family's house. The next morning, J.D. discovered that eggs had been thrown on the side of his car nearest to Hudak's house. Around 11 p.m. that night, as J.D. was preparing to drive away from his house with his friend L.L., Hudak emerged [REDACTED] and yelled that J.D.'s car was too loud and that his headlights, which were pointed towards Hudak's

home, woke up his daughter. Hudak also said, "you fucking Mexican alcoholics" and told J.D. to "go back to your country."

23. J.D. and Hudak argued back and forth until J.D. said "if you want to do something, let's do it" and Hudak charged at him. Hudak swung at J.D., and J.D. avoided the first two or three swings. Hudak hit J.D. in the lip with a closed fist. J.D. returned punches, hitting Hudak in the gut, face and back of the head. Hudak fell and J.D. retrieved his shotgun from the trunk of his Camaro and pointed it at Hudak, telling Hudak that he needed to leave J.D.'s yard.

24. Hudak was on all fours and tackled J.D. into the Camaro, causing vehicle damage. J.D. gave the gun to L.L., and Hudak and J.D. continued fighting. L.L. got close and tried to separate them, causing Hudak to hit L.L. When Hudak and J.D. got up, J.D. got the gun again and aimed at Hudak. They were walking around the car and Hudak continued to walk towards J.D. Hudak said things like, "fucking Mexican," "when I see you again, I am going to run you off the road," and "I'm going to kill you."

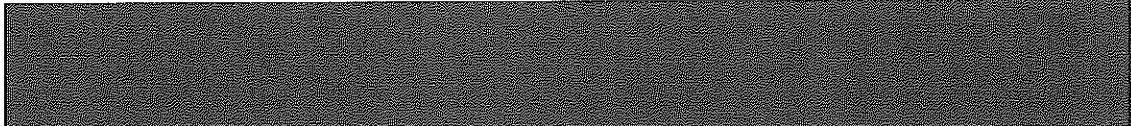
25. J.D. also told agents that on one occasion, J.D. and Hudak were driving towards each other down their street, and Hudak tried to force J.D. off the road. J.D. knew it was Hudak because of Hudak's truck, which J.D. described as a 1500 Dodge Ram with flags, including Confederate, USA, and

police flags, as well as Trump stickers. J.D. reported Hudak also put peoples' names and addresses on his truck, including A.D. and J.D.'s other neighbors. In reference to A.D., Hudak's truck said, "illegals, drug abusers, alcoholics and racist."

26. A.D., J.D.'s mother, obtained a Cabarrus County No Contact Order on Hudak, which is in effect until September 2023. In the complaint filed by A.D., A.D. reported that on August 27, 2022, Hudak came towards their dog with a bat and verbally attacked her daughters, ages nine and thirteen, for letting the dog go into Hudak's yard. When A.D. came outside, Hudak continued to yell and called A.D. a "fucking Mexican," "stupid, fat ass bitch," and said she should "go back to Mexico." A.D. contacted the police because A.D.'s daughters were terrified.

27. On August 29, 2022, Hudak recorded A.D. using a cell phone while she was waiting for the bus, saying "there she is that stupid, fat ass Mexican bitch," and "her and her husband are stupid." A.D. took her daughter to a bus stop farther away. On August 30, 2022, Hudak yelled at A.D. when A.D. was getting her trash cans, yelling, "fucking fat ass Mexican bitch," "you like to pull guns," "I promise you this is never going to end," and "you are a Mexican Gipsi [sic]."

28. J.D. discussed the incident which occurred in August 2022 with A.D. and A.D.'s daughters. Because of the August 2022 incident, J.D. decided to move home to watch over his sisters. J.D. moved home in September 2022,



#### **Other Incidents Involving Hudak & Evidence of Racial Animus**

29. In addition to interviewing the victims described in the preceding paragraphs, other agents involved with this investigation and I interviewed numerous other witnesses who had encounters or dealings with Hudak. We also spoke to officers from the CPD who dealt with Hudak and reviewed hours of body camera footage from those incidents.

30. On July 21, 2022, multiple people called CPD to report that Hudak was broadcasting racial slurs over a loudspeaker on his truck in the Sam's Club parking lot. Below is a photograph taken of Hudak's truck during the incident.



31. When officers arrived, Hudak was broadcasting "fuck the Black people" over a loudspeaker. A warrant was obtained for speech likely to provoke a riot and was served on Hudak on July 28, 2022. Hudak was banned from Sam's Club.

32. On July 2, 2022, after being arrested for injury to property, Hudak told the arresting officer "Black people and Mexican people, oh my God, you know? Some of them, they are good, they friendly, but some of them they hate you guys, they hate thin blue line, they hate everything" and then admitted to calling someone "You fucking n\*\*\*\*\*" and explained "I hate using that word because it's not good, but what can I do?"

33. On December 30, 2022, Hudak was arrested for disorderly conduct after sitting at an intersection, yelling, “Fuck you, n\*\*\*\*\*,” at least three Black pedestrians and drivers in downtown Concord, unprovoked. On the BWC footage, Hudak tells officers that he was yelling slurs because of the “Black guy” the day before who said he would “fuck [Hudak’s] daughter’s pussy” during a verbal altercation at a gas station, Hudak “started yelling at every intersection, ‘You fucking n\*\*\*\*\*.’ So you know, if they don’t have respect for me, I don’t have respect for them … I can’t take this anymore. I got banned from Sam’s Club because they said that I yell F Black people, come on. Black people always insult me and my family …” Later in the same BWC video, Hudak tells officers, “Now at every intersection I will call, ‘You F n\*\*\*\*\*, F you,’ and I show the fingers … It’s my First Amendment, and I will use it because they ask for trouble.”

34. On January 9, 2023, Hudak posted on Facebook a picture of J.D.’s car and a Mexican flag hanging in J.D.’s yard and commented, “idiots from Mexico [REDACTED],” “illegal immigrants,” and “stick this ugly flag into your ass you stupid bastards.”

35. D.E., [REDACTED] reported to agents that around April 2021, Hudak spit at her car as she was driving by his house. N.M., a Black woman who also lives in Hudak’s neighborhood,

similarly told agents that Hudak drove past her house, made eye contact with her, and raised his middle finger.

36. B.L., another Black woman, told agents that around September or October 2022, while B.L. was driving home, Hudak pulled up behind her at a red light and used a loudspeaker attached to his truck to say something about hating Mexicans and “all you Blacks.” B.L. changed lanes to get away from Hudak, but Hudak pulled up next to her and yelled at her while aggressively pointing at her.

### **Conclusion**

37. Based on the foregoing, I respectfully submit that there is probable cause to believe that on or about October 13, 2022, in Concord, Hudak, did by force and threat of force, willfully intimidate and interfere with, J.S., and attempt to intimidate and interfere with J.S., because of J.S.’s race and color, and because J.S. was enjoying a facility provided and administered by a State and its subdivision, that is, Concord Parkway South and Warren Coleman Boulevard. The offense included the use, attempted use, and threatened use of a dangerous weapon, that is, a firearm.

38. I also respectfully submit that there is probable cause to believe that on or about November 27, 2021, in Concord, Hudak, did by force and the threat of force, willfully injure, intimidate and interfere with J.D., and attempt

to injure, intimidate and interfere with J.D., because of J.D.'s race and national origin, and because J.D. was occupying a dwelling. The offense resulted in bodily injury to J.D.

Respectfully submitted,

/S/ Michael Stone  
Michael Stone, Special Agent  
Federal Bureau of Investigation  
United States Department of Justice

On this day, the applicant appeared before me by reliable electronic means, that is by telephone, was placed under oath, and attested to the contents of this Application for a search warrant in accordance with the requirements of Fed. R. Crim. P. 4.1. June 20, 2023 3:28 pm

  
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The Hon. Joe L. Webster  
United States Magistrate Judge  
Middle District of North Carolina